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Docket No. UF-216C1
Serial No. 10/062,623Remarks

Claims 71-140 were pending in the subject application. By this Amendment, claims 71, 85, 86, 99, 105, 111, and 133 have been amended, claims 78, 125, and 126 have been cancelled, and claims 141 and 142 have been added. The undersigned avers that no new matter is introduced by this amendment. Entry and consideration of the amendments presented herein is respectfully requested. Accordingly, claims 71-77, 79-124 and 127-142 are currently before the Examiner for consideration. Favorable consideration of the pending claims is respectfully requested.

The applicants and the applicants' representative wish to thank Examiner Woitoch for the courtesy of the telephonic interview conducted with the undersigned on July 29, 2004, regarding the rejection under 35 U.S.C. §112, second paragraph. The remarks and amendments set forth herein are consistent with the substance of the interview and are believed to address the outstanding issues as discussed during the interview.

The applicants gratefully acknowledge the Examiner's indication that claims 111-124 and 127-140 have been allowed in the subject application.

Claims 71-110, 125, and 126 are rejected under 35 U.S.C. §112, second paragraph, as indefinite. The applicants submit that the claims are not indefinite. However, in order to expedite prosecution of the subject application, the applicants have amended the claims and cancelled claims 78, 125, and 126.

Claim 71 has been amended to delete the term "a pesticidally effective amount". Claims 85 and 86 have been amended to recite that the pesticidal polypeptide inhibits synthesis of the enzyme (serine esterase and trypsin, respectively) within the pest. Claim 99 has been amended to recite that the host cell is transformed with a polynucleotide encoding a pesticidal polypeptide, operatively linked to a promoter.

Support for these amendments can be found throughout the subject specification and claims as originally filed. Support for the amendments to claims 85 and 86 can be found, for example, at page 3, paragraph 0008; page 6, paragraph 0018; page 10, paragraphs 40-42; page 24, paragraph 0088; page 25, paragraph 0089; and page 27, paragraph 0092, of the specification. Support for the

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amendments to claim 99 can be found, for example, at page 8, paragraph 0026; and page 18, paragraph 0065, of the specification, and claim 44.

The applicants submit that the metes and bounds of the claimed subject matter would be conveyed to those of ordinary skill in the art. Accordingly, reconsideration and withdrawal of the rejection under 35 U.S.C. §112, second paragraph, is respectfully requested.

As discussed during the telephonic Examiner interview, the applicants have also amended claims 71, 99, 111, and 133 to recite that the polynucleotide is exogenous. Support for this amendment can be found, for example, at page 9, paragraph 0032, of the specification, which describes transformation. Claims 111 and 133 have also been amended to recite that the polynucleotide is operatively linked to a promoter. Support for this amendment can be found, for example, at page 8, paragraph 0026; and page 18, paragraph 0065 of the specification, and claim 44 as originally filed. Claim 105 has also been amended to recite that the promoter has the capacity to control expression of the polynucleotide in a host cell. Support for this amendment can be found, for example, at page 8, paragraph 0026; page 9, paragraph 0032; and page 18, paragraph 0064.

In addition, by this Amendment, claims 141 and 142 have been added. Claims 141 and 142 differ from claims 105 and 111 in reciting that the pesticidal polypeptide consists of an amino acid sequence selected from the group consisting of SEQ ID NO:3, SEQ ID NO:4, SEQ ID NO:6, SEQ ID NO:8, SEQ ID NO:10, SEQ ID NO:12, SEQ ID NO:14, SEQ ID NO:16, SEQ ID NO:18, SEQ ID NO:20, SEQ ID NO:22, SEQ ID NO:23, and SEQ ID NO:24.

In view of the foregoing remarks and amendments to the claims, the applicants believe that the currently pending claims are in condition for allowance, and such action is respectfully requested.

The Commissioner is hereby authorized to charge any fees under 37 C.F.R. §§ 1.16 or 1.17 as required by this paper to Deposit Account 19-0065.

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The applicants invite the Examiner to call the undersigned if clarification is needed on any of this response, or if the Examiner believes a telephonic interview would expedite the prosecution of the subject application to completion.

Respectfully submitted,



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Attachment: Amendment Transmittal Letter

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